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HOUSE BILL 3329

By Windle

AN ACT to amend Chapter 130 of the Acts of 1907; and any other acts amendatory thereto, relative to removal of vegetation and debris from real property located within the Town of Livingston, County of Overton.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The Acts of 1907, and all other acts amendatory thereto, is further amended by adding the following language as a new Section 26 and by renumbering present Section 26 as Section 27:

Section 26. (a) If it is determined by the Board of Mayor and Aldermen that any owner of record of real property has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the Mayor shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that

the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

(1) A brief statement of this section which shall contain the consequences of failing to remedy the noted condition;

(2) The Mayor's office address and telephone number;

(3) A cost estimate for remedying the noted condition which shall be in conformity with the standards of cost in the community; and

(4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(b) (1) If the owner of record fails or refuses to remedy the condition within ten (10) days, or additional time as determined by the Board of Mayor and Aldermen, after receiving the notice, the Board shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. The town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds of Overton County, the costs shall be a lien on the property in favor of the Town of Livingston, second only to liens of the state, Overton County and the Town of Livingston for taxes, any lien of the town for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the town tax collector or Overton County trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same

manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(2) If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten (10) day period of the first sentence of this subsection shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.

(c) (1) The Board of Mayor and Aldermen may make any rules and regulations necessary for the administration and enforcement of this section. The town shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (a). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (a) or within such additional time as determined by the Board. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.

(2) Any person aggrieved by an order or act of the Board of Mayor and Aldermen may seek judicial review of the order or act. The time period established in subsection (b) shall be stayed during the pendency of a hearing.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the town of Livingston. Its approval or nonapproval shall be proclaimed by the presiding officer of the town of Livingston and certified to the secretary of state.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.